IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 419 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL TRIBHOVANDAS MADHAVLAL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 419 of 2001

MR RC JANI for Petitioner No. 1

MR BD DESAI A.P.P. for Respondent No. 1

MR KJ KAKKAD for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 20/02/2002

ORAL JUDGEMENT

1. It appears from the arguments of the learned advocate for the petitioner that the present petitioner had filed four criminal complaints before the learned

Judicial Magistrate, First Class, Unjha, District Mehsana being criminal case Nos.482, 483, 634 and 635/1995. All the complaints related to the offence punishable under Section 138 of Negotiable Instruments Act, 1881. All the four complaints were filed against the common accused person Patel Chandulal Laxmanbhai who happens to be respondent in the present revision application. At the end of the trial the learned Magistrate convicted the contesting respondent by judgment and order dated 2.3.2001 in each case and sentenced him to suffer S.I. for a period of six months in each case. The learned Magistrate, also directed the contesting respondent in each case to pay fine in accordance with the order in each case.

2. However, the learned Magistrate has clarified that the substantive sentence in each case shall run consecutively. Feeling aggrieved by the judgment and conviction order in these four cases dated 2.3.2001, the contesting respondent preferred criminal appeals before the Sessions Court at Mehsana, being criminal appeals Nos.17, 18, 19 and 20/2001 under Section 374 of the Code of Criminal Procedure. The learned Additional Sessions Judge, Mehsana who heard the appeals, partly allowed the same by judgment and order dated 18.7.2001. The learned Additional Sessions Judge confirmed the conviction of the contesting respondent in all the four cases. However, he was pleased to direct that the substantive sentence be run concurrently. Rest of the conviction and sentence of the contesting respondent has been confirmed in appeals. Feeling aggrieved by the aforesaid four orders of the Sessions Court, the petitioner has preferred this revision application before this Court. It has been contended here that the learned Additional Sessions Judge has committed illegality in directing that the substantive sentence be run concurrently. Only that part of the order of the Sessions Court has been challenged here. At the beginning the point raised is as to whether one revision application would lie when there are four different criminal cases between the parties and when all of them had resulted in conviction of the contesting respondent. It was also pointed out that the contesting respondent had preferred four different criminal appeals under Section 374 of the said code and that though the judgment was common, the orders were separate with respect to each appeal and, therefore, a question had arisen as to whether one revision application would lie. During the course of hearing the learned advocate for the petitioner was not in a position to satisfy this Court that one revision application would lie against the four judgments of the Sessions Court, in four different

criminal appeals. The learned advocate appearing for the petitioner places on record a letter addressed by him to the petitioner stating that it would be necessary to have four revision to challenge four judgments in four criminal appeals and, therefore, the petitioner should approach him for further instruction with appropriate fees and costs. The said letter may be taken on record.

3. Despite this, the petitioner does not appear to have approached the learned advocate for the petitioner and, therefore, the learned advocate for the petitioner seeks some time to have further negotiation with the petitioner. At this stage, Mr.Kakkad learned advocate for the contesting respondent - original accused has stated that he had gone to Rajkot yesterday and in the night he came to know about the listing of this matter. He had contacted the learned advocate for the petitioner on phone and he, in turn, had told him that the said matter may be taken up for final hearing and, therefore, he was required to come to the Court. He has also agured that in above view of the matter, the petitioner should pay costs to the respondent for the inconvenience caused. The learned advocate for the petitioner is probably not in a position to say anything about the payment of costs and, therefore, there is no reason to adjourn the matter.

4. The matter was again taken up in the second session and Mr.R.C. Jani, learned advocate for the petitioner states that the petitioner does not desire to pay costs and the learned advocate for the contesting respondent should not insist on payment of costs. He has also stated that the telephonic message was received by his mother. The fact remains that the learned advocate for respondent No.2 has come from Rajkot. According to him he has come to attend this matter only. He therefore has pressed for costs. In that view of the matter, when the petitioner is not prepared to pay costs and there is no question of adjourning the matter.

5. Even when the matter was taken up for arguments it was made clear that though there were four criminal cases, all resulting in conviction, and when four appeals were filed by respondent no.2 and when four appeals were dismissed with a slight modification as aforesaid, it would not be open to the petitioner herein to file only one revision application for challenging the four orders in four criminal appeals referred herein above. In that view of the matter, the revision application would not be maintainable and, therefore, there is no option with the Court but to dismiss the revision application as not maintainable.

For the foregoing reasons, this revision application is dismissed as not maintainable, since it challenges four different orders of four different appeals as against four different convictions in four different criminal cases against respondent No.2. Rule is discharged.

(D.P. Buch, J.)

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